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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/683,015	11/08/2001	Frank Leymann	DE920000019	6126
24241	7590	08/30/2005	EXAMINER	
IBM MICROELECTRONICS INTELLECTUAL PROPERTY LAW 1000 RIVER STREET 972 E ESSEX JUNCTION, VT 05452			MANOSKEY, JOSEPH D	
		ART UNIT	PAPER NUMBER	
		2113		
DATE MAILED: 08/30/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.	09/683,015	Applicant(s)	LEYMANN ET AL.
Examiner	Joseph D. Manoskey	Art Unit	2113

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on 6/20/05.
- 2a) This action is FINAL.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 1-14 and 16-24 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 17-19 and 22-24 is/are allowed.
- 6) Claim(s) 1-8, 12-14, 16, 20 and 21 is/are rejected.
- 7) Claim(s) 9-11 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 08 November 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.



## DETAILED ACTION

### ***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Europe (Germany) on 14 November 2000. It is noted, however, that applicant has not filed a certified copy of the EP00124796.4 application as required by 35 U.S.C. 119(b).

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-8, 12-14, 16, 20, and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Bridge, Jr. et al., U.S. Patent 6,351,754, hereinafter referred to as "Bridge".

4. Referring to claims 1 and 20, Bridge teaches a method for controlling the amount of recovery downtime after a database system failure, this is interpreted as a method of

dynamically controlling restart processing for recovery of an application (See Col. 6, lines 40-43). Bridge teaches the use of a checkpoint value and a target checkpoint value to determine when to take checkpoints of data, this is interpreted as dynamically calculating a restart time required to restart a resource manager in case of termination or recovery of said resource manager and dynamically initiating said resource manager to take a checkpoint whenever said restart time exceeds a specified period of time (See Col. 5, lines 26-38).

5. Referring to claim 2, Bridge discloses including change information that corresponds to a plurality of data blocks, this is interpreted as receiving a new request to modify a resource (See Col. 5, lines 26-38).

6. Referring to claims 3 and 21, Bridge teaches the checkpoint value indicating all the records have to be processed after a failure, this is interpreted as calculating said restart time to include the new request and all accumulated requests since a last checkpoint which participate in the restart processing (See Col. 5, lines 26-28).

7. Referring to claim 4, Bridge discloses the checkpoint value being based on the desired number data blocks reads required during recovery, this is interpreted as the specified restart time is specified to said resource manager by said application (See Col. 5, lines 57-59).

8. Referring to claims 5 and 6, Bridge teaches the system containing clients and hosts, this is interpreted as the application comprising application clients and application servers (See Fig. 2).

9. Referring to claim 7, Bridge discloses the use of a redo log file, this is interpreted as a request-load-log of all accumulated requests since said last checkpoint for the step of dynamically calculating said restart time (See Col. 8, line 66 to Col. 9, line 4).

10. Referring to claim 8, Bridge teaches the system connected via a network, this is interpreted as a plurality of resource managers are connected to said application server (See Fig. 2).

11. Referring to claims 12 and 13, Bridge discloses the system being a database system, this is interpreted as an resource manager performs the steps of dynamically calculating and dynamically initiating and an application server performs the steps of dynamically calculating and dynamically initiating (See Fig. 2 and Col. 6, lines 40-43).

12. Referring to claim 14, Bridge teaches a method for controlling the amount of recovery downtime after a database system failure, this is interpreted as a method recovering a valid state of a resource manager in response to an abnormal termination of the resource manager (See Col. 6, lines 40-43). Bridge teaches the checkpoint value indicating all the records have to be processed after a failure, this is interpreted

receiving a plurality of requests for one or more resource managed by the resource manager (See Col. 5, lines 26-28). Bridge teaches the use of a checkpoint value and a target checkpoint value to determine when to take checkpoints of data, this is interpreted as calculating, as each one of the requests is processed, the time required to restore a valid state of the resource manager and saving the current state of the resource manager each time the calculated restore time exceeds a specified time period (See Col. 5, lines 26-38).

13. Referring to claim 16, Bridge teaches a executing instructions for the method for controlling the amount of recovery downtime after a database system failure, this is interpreted as a computer program product for a method of dynamically controlling restart processing for recovery of an application (See Col. 6, lines 40-43 and Col. 7, lines 17-45). Bridge teaches the use of a checkpoint value and a target checkpoint value to determine when to take checkpoints of data, this is interpreted as dynamically calculating a restart time required to restart a resource manager in case of termination or recovery of said resource manager and dynamically initiating said resource manager to take a checkpoint whenever said restart time exceeds a specified restart time (See Col. 5, lines 26-38).

***Allowable Subject Matter***

14. Claims 9-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

15. Claims 17-19 and 22-24 are allowed. Newly added independent claims 17, 22 and their respective dependent claims are allowed because claims 17 and 19 include the limitations of claims 1 and 16 respectively and claim 9 which has been objected to as being dependent upon a rejected base claim, but containing allowable subject matter.

### ***Response to Arguments***

16. Applicant's arguments, see pages 7 and 8, filed 20 June 2005, with respect to the drawings have been fully considered and are persuasive. The objection of the drawings has been withdrawn.

17. Applicant's arguments, see pages 8 and 9, filed 20 June 2005, with respect to claims 1-8, 12-14, and 16 have been fully considered but they are not persuasive. The Applicant argues that Bridge does not teach the dynamic calculating a restart time and dynamically initiating the resource manager to take a checkpoint, but rather teaches a static method having a predetermined number of records are determined when the checkpoint is taken. The Examiner respectfully disagrees. Bridge teaches a target checkpoint value is determined based on a desired number of data block reads that will

be required during a during a redo phase of recovery (See Col. 5, lines 26-38). This is interpreted as a maximum number of data block reads and not as a static predetermined number of records, thus allowing the number of records to fluctuate and be dynamic.

### ***Conclusion***

18. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph D. Manoskey whose telephone number is (571) 272-3648. The examiner can normally be reached on Mon.-Fri. (7:30am to 4pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (571) 272-3645. The fax phone

number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JDM  
August 25, 2005

*Robert Beausoliel*  
ROBERT BEAUSOLIEL  
EXAMINER  
TECHNOLOGY CENTER 2100